

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-003532

01/31/2011

HONORABLE THOMAS L. LECLAIRE

CLERK OF THE COURT

D. Benitez

Deputy

IN RE THE MATTER OF
NATASHA RENEE AHUMADA

NATASHA RENEE AHUMADA
7002 WEST INDIAN SCHOOL ROAD
APT. #1023
PHOENIX AZ 85033

AND

RICHARD MANUEL HERNANDEZ II

KEVIN J VALE

CONCILIATION SERVICES-CCC

MINUTE ENTRY

Courtroom CCB – 501

8:54 a.m. This is the time set for an Emergency Hearing regarding Petitioner's Motion for Post-Decree Temporary Order Without Notice for Modification of Child Custody and Parenting Time filed January 31, 2011. Petitioner/Mother, Natasha Renee Ahumada, is present on her own behalf. Respondent/Father, Richard Manuel Hernandez, is neither present nor represented by counsel.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Natasha Renee Ahumada is sworn.

Discussion is held with the Court regarding Petitioner's pleading.

Mother informs the Court that Father has filed false allegations with Child Protective Services (CPS), has threatened not to return the minor children, owes her back child support, is

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-003532

01/31/2011

on probation for one drug charge, has another drug charge pending, as well as a DUI, and has driven his Father's vehicle to avoid the breathalyzer.

LET THE RECORD REFLECT that the Court has examined CR2010-157672-001DT a complaint for possession or use of marijuana and possession of drug paraphernalia, both Class VI felonies. In addition to that, the Court has a search warrant #2009-003714 showing that on May 31, 2009, Respondent was charged for driving under the influence, an extreme DUI, and that, at the time, it appears that his driving privilege was suspended. The Court is also looking at CR2009-108712-001DT, which is one count of possession of marijuana and another count of possession of drug paraphernalia.

Probable cause statement showed that the Respondent was driving a Land Rover, which the Court notes is a reasonably expensive SUV car, there was a traffic stop for speeding on Estrella Parkway, approximately 57 mph in a 45 mph zone, and the officer detected odor. The Respondent denied using marijuana despite the presence of marijuana smoke in the vehicle. After a search of the vehicle, marijuana was found in a cooler that was sitting on the driver's passenger seat. He stated to the officer that he lied because he "got nervous." He later admitted that the marijuana was his.

Further discussion is held.

THE COURT FINDS that the Petitioner has provided information to the Court which establishes that there is a substantial and immediate danger to the minor children because Respondent is driving the minor children in a vehicle while his license is suspended, and he is required by law to have a locking device on his vehicle, and is using other vehicles to avoid that inconvenience. He was driving on a suspended license when he was stopped for marijuana, so he shows a pattern of behavior that indicates that he is not impressed with following the law when directed to do so. The Court credits Mother's testimony that he is threatening to take the children away and has in fact kept the children beyond the time set forth in the Court's order, and that that is a violation of the Court's order. The statements he has made are either actual threats or designed to control Mother's behavior, both of which are impermissible and will not be tolerated by the Court. The Court will not allow the minor children to be used as pawns in any power play between individuals. Therefore,

IT IS ORDERED that the Court suspends Father's parenting time until further order of this Court.

IT IS FURTHER ORDERED that the Court grants Mother sole legal custody of the minor children until such time as there is a further hearing in this matter and Father has the opportunity to present his side of the case.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-003532

01/31/2011

RETURN/CONTEMPT HEARING SET

IT IS ORDERED setting a return/contempt hearing in this matter on **February 8, 2011 at 11:30 a.m. (30 minutes allotted)** in this division before:

**The Honorable Thomas L. LeClaire
Maricopa County Superior Court
Central Court Building
201 W. Jefferson
5th Floor, Courtroom 501
Phoenix, AZ 85003**

****PLEASE NOTE THE NEW LOCATION OF JUDGE LeCLAIRE'S DIVISION**

At the contempt hearing Respondent shall show cause as to why he should not be held in contempt for violation of this Court's orders on parenting time, for interference with custody, for endangerment of the children, and for failure to pay child support as directed by the Court.

This hearing will be examined in the context of criminal contempt where Respondent may be subject to jail time of up to four months and a fine consistent with a Class II misdemeanor.

At the return hearing, the court may hear evidence in order to determine whether to grant or deny the relief requested, or to schedule a more extended evidentiary hearing. The court may also enter temporary orders. Each party should be prepared to present their case in the time allotted.

The responding party may file a response in accordance with Rule 91, *Arizona Rules of Family Law Procedure*. Copies of the response and all related documents must be served on the moving party or moving party's attorney in accordance with Rule 43, *Arizona Rules of Family Law Procedure*.

If the parties agree that this matter may be expedited by a telephonic scheduling conference in lieu of a resolution management conference, they (or their counsel, if represented) may jointly contact this division to request a telephonic scheduling conference. If such a request is made at least 5 days before the scheduled matter, the court will determine whether to convert the return hearing into a telephonic scheduling conference.

Failure of the moving party to appear may result in an order dismissing the petition. Failure of the responding party to appear may result in an order granting all relief requested in the petition/motion.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-003532

01/31/2011

Exhibits for use at the hearing shall be delivered to the Clerk of this Division at least **five (5) business days** before the hearing for marking. **If exhibits are not delivered to the Clerk five business days in advance, you may be required to use hearing time for the marking of exhibits.** In addition, each party shall deliver a copy of his/her exhibits to the opposing parties at least five business days before the hearing.

The parties should also provide a copy of exhibits to the judge on the day of the hearing. This allows the judge to see the exhibits at the same time they are being presented to witnesses.

9:10 a.m. Matter concludes.

LATER:

Richard Manuel Hernandez, II is sworn. Natasha Renee Ahumada having previously been sworn this date, is still under oath.

9:45 a.m. This is the time for an Emergency Hearing that is recalled from an earlier Emergency Hearing held in this Division this same date, January 31, 2011. Petitioner/Mother, Natasha Renee Ahumada, is present on her own behalf. Respondent/Father, Richard Manuel Hernandez, II, is present on his own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

In the prior hearing held earlier this date, Respondent was not present. Father has now appeared and has filed this date, January 31, 2011, an emergency pleading entitled, "Motion for Post-Decree Temporary Order Without Notice for Modification of Child Custody."

THE COURT NOTES that Father has not been paying his child support and can be held in contempt.

THE COURT NOTES that Father has been driving on a suspended license, as Father acknowledged that he recently did when he drove to pick up the minor children for his parenting time.

Father informs the Court that his driving suspension shall be up in June of 2012.

Further discussion is held with the Court regarding the status of this matter.

Based upon the testimony presented and the matters discussed,

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-003532

01/31/2011

IT IS ORDERED vacating the prior order of the Court issued this date, January 31, 2011, suspending Father's parenting time.

IT IS FURTHER ORDERED restoring Father's parenting time.

HIGH CONFLICT RESOLUTION CLASS

IT IS ORDERED that both parties shall separately attend and complete a High Conflict Resolution class within 60 days of the date of this order. Based on this order you will be registered and notified by mail of the date/time/location of the class. If you have any questions regarding the class to which you have been assigned please call 602-506-6124. A **\$50** fee is required to attend the class. Please present the instruction form or this Court Order with payment at any Clerk of Superior Court filing counter at least 5 days prior to your scheduled class. Each party must bring a copy of the payment or deferral receipt, or a confirmation number of a telephonic transaction to class to be admitted.

WARNING

IF YOU APPEAR LATE OR ATTEMPT TO ATTEND THE CLASS WITHOUT CONFIRMATION OF PAYMENT (AS DEFINED ABOVE) YOU WILL BE TURNED AWAY FROM THE CLASS. IF YOU FAIL TO ATTEND THE CLASS OR ARE TURNED AWAY, YOU MAY BE REQUIRED TO PAY A \$100 NO SHOW FEE. IF YOU CANNOT ATTEND FOR ANY REASON, YOU MUST REQUEST AND BE GRANTED PERMISSION TO RESCHEDULE YOUR ATTENDANCE AT LEAST 24 HOURS BEFORE THE SCHEDULED CLASS. PLEASE CALL THE NUMBER LISTED ABOVE IF YOU NEED TO REQUEST TO RESCHEDULE YOUR ATTENDANCE.

ISSUED: High Conflict Resolution forms (2)

Father informs the Court that he will try to catch up on his child support by the end of February. Accordingly,

IT IS ORDERED setting a 15-minute telephonic Status Conference on **February 25, 2011 at 8:45 a.m. (15 minutes allotted)** to review Father's payment of child support to Mother. The party/parties may appear telephonically at the hearing by calling this Court at (602) 372-3849. All parties appearing telephonically must be joined in a single conference call and be prepared to hold until transferred into the courtroom. The call should be placed from a telephone in an area with no background noise as this will prevent the parties from hearing the proceedings in the courtroom. The call may not be placed from a vehicle. Also, the use of cellular telephones to call into the hearing is not permitted

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-003532

01/31/2011

IT IS FURTHER ORDERED that Father is allowed to make his child support payments directly to Mother by check and to keep a record of the payments made directly to Mother.

IT IS FURTHER ORDERED vacating the contempt hearing that was set in this Division on February 8, 2011 at 11:30 a.m.

IT IS FURTHER ORDERED that Father shall return the personal property of Mother's that is currently in his possession by Friday, **February 4, 2011**.

Further discussion is held.

10:28 a.m. Matter concludes.

IT IS FURTHER ORDERED signing this Minute Entry as a formal written order of the Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*.

/s/ Honorable Thomas L. LeClaire

THOMAS L. LeCLAIRE
SUPERIOR COURT JUDGE

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.